

2012

TAX TO FUND EDUCATION AND EARLY CHILDHOOD PROGRAMS.

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TAX TO FUND EDUCATION AND EARLY CHILDHOOD PROGRAMS. INITIATIVE STATUTE.

- Increases personal income tax rates on annual earnings over \$7,316 using sliding scale from .4% for lowest individual earners to 2.2% for individuals earning over \$2.5 million, for twelve years.
- During first four years, allocates 60% of revenues to K–12 schools, 30% to repaying state debt, and 10% to early childhood programs. Thereafter, allocates 85% of revenues to K–12 schools, 15% to early childhood programs.
- Provides K–12 funds on school-specific, per-pupil basis, subject to local control, audits, and public input.
- Prohibits state from directing new funds.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- Increase in state personal income tax revenues from 2013 through 2024. The increase would be roughly \$10 billion in 2013–14, tending to increase over time. The 2012–13 increase would be about half this amount.
- In each of the initial years, about \$6 billion would be used for schools, \$1 billion for child care and preschool, and \$3 billion for state savings on debt payments. The 2013–14 amounts likely would be higher due to the additional distribution of funds raised in 2012–13.
- From 2017–18 through 2024–25, the shares spent on schools, child care, and preschool would be higher and the share spent on debt payments lower.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW

This measure raises personal income taxes on most California taxpayers from 2013 through 2024. The revenues raised by this tax increase would be spent on public schools, child care and preschool programs, and state debt payments. Each of the measure’s key provisions is discussed in more detail below.

STATE TAXES AND REVENUES

\$1 million (with the associated revenue dedicated to mental health services).

Proposal

Increases PIT Rates. This measure increases state PIT rates on all but the lowest income bracket, effective over the 12-year period from 2013 through 2024. As shown in Figure 1, the additional marginal tax rates would increase with each higher tax bracket. For example, for joint filers, an additional 0.7 percent marginal tax rate would be imposed on income between \$34,692 and \$54,754, increasing the total rate to 4.7 percent. Similarly, an additional 1.1 percent marginal tax rate would be imposed on income between \$54,754 and \$76,008, increasing the total rate to 7.1 percent. These higher tax rates would result in higher tax liabilities on roughly 60 percent of state PIT returns. (Personal, dependent, senior, and other tax credits, among other factors, would continue to eliminate all tax liabilities for many lower-income tax filers even if they have income in a bracket affected by the measure’s rate increases.) The additional 1 percent rate for mental

38 Background

Personal Income Tax (PIT). The PIT is a tax on wage, business, investment, and other income of individuals and families. State PIT rates range from 1 percent to 9.3 percent on the portions of a taxpayer’s income in each of several income brackets. (These are referred to as marginal tax rates.) Higher marginal tax rates are charged as income increases. The tax revenue generated from this tax—totaling \$49.4 billion for the 2010–11 fiscal year—is deposited into the state’s General Fund. In addition, an extra 1 percent tax applies to annual income over

Figure 1
Current and Proposed Personal Income Tax Rates Under Proposition 38

Single Filer's Taxable Income ^a	Joint Filers' Taxable Income ^a	Head-of-Household Filer's Taxable Income ^a	Current Marginal Tax Rate ^b	Proposed Additional Marginal Tax Rate ^b
\$0–\$7,316	\$0–\$14,632	\$0–\$14,642	1.0%	—
7,316–17,346	14,632–34,692	14,642–34,692	2.0	0.4%
17,346–27,377	34,692–54,754	34,692–44,721	4.0	0.7
27,377–38,004	54,754–76,008	44,721–55,348	6.0	1.1
38,004–48,029	76,008–96,058	55,348–65,376	8.0	1.4
48,029–100,000	96,058–200,000	65,376–136,118	9.3	1.6
100,000–250,000	200,000–500,000	136,118–340,294	9.3	1.8
250,000–500,000	500,000–1,000,000	340,294–680,589	9.3	1.9
500,000–1,000,000	1,000,000–2,000,000	680,589–1,361,178	9.3	2.0
1,000,000–2,500,000	2,000,000–5,000,000	1,361,178–3,402,944	9.3	2.1
Over 2,500,000	Over 5,000,000	Over 3,402,944	9.3	2.2

^a Income brackets shown were in effect for 2011 and will be adjusted for inflation in future years. Single filers also include married individuals and registered domestic partners (RDPs) who file taxes separately. Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child.

^b Marginal tax rates apply to taxable income in each tax bracket listed. For example, a single tax filer with taxable income of \$15,000 could have had a 2011 tax liability under current tax rates of \$227: the sum of \$73 (which equals 1 percent of the filer's first \$7,316 of income) and \$154 (2 percent of the filer's income over \$7,316). This tax liability would be reduced—and potentially eliminated—by personal, dependent, senior, and other tax credits, among other factors. The proposed additional tax rates would take effect beginning in 2013 and end in 2024. Current tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of \$1 million.

health services would still apply to income in excess of \$1 million. This measure's rate changes, therefore, would increase these taxpayers' marginal PIT rates from 10.3 percent to as much as 12.5 percent. Proposition 30 on this ballot also would increase PIT rates. The nearby box describes what would happen if both measures are approved.

Provides Funds for Public Schools, Early Care and Education (ECE), and Debt Service. The revenues raised by the measure would be deposited into a newly created California Education Trust Fund (CETF). These funds would be dedicated exclusively to three purposes. As shown in Figure 2, in 2013–14 and 2014–15, the measure allocates 60

Figure 2
Allocation of Revenues Raised by Proposition 38

	2013–14 and 2014–15	2015–16 and 2016–17	2017–18 Through 2023–24
Schools	60%	60%	85%
Early Care and Education (ECE)	10	10	15
State debt payments	30	30 ^a	— ^a
Totals	100%	100%	100%
Growth limit on allocations to schools and ECE programs ^a	No	Yes	Yes

^a Reflects minimum share dedicated to state debt payments. Revenues beyond growth limit also would be used to make debt payments.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

percent of CETF funds to schools, 10 percent of funds to ECE programs, and 30 percent of funds to make state debt payments. In 2015–16 and 2016–17, the same general allocations are authorized

What Happens if Voters Approve Both Proposition 30 and Proposition 38?

State Constitution Specifies What Happens if Two Measures Conflict. If provisions of two measures approved on the same statewide ballot conflict, the Constitution specifies that the provisions of the measure receiving more “yes” votes prevail. Proposition 30 and Proposition 38 on this statewide ballot both increase personal income tax (PIT) rates and, as such, could be viewed as conflicting.

Measures State That Only One Set of Tax Increases Goes Into Effect. Proposition 30 and Proposition 38 both contain sections intended to clarify which provisions are to become effective if both measures pass:

- **If Proposition 30 Receives More Yes Votes.** Proposition 30 contains a section indicating that its provisions would prevail in their entirety, and none of the provisions of any other measure increasing PIT rates—in this case Proposition 38—would go into effect.
- **If Proposition 38 Receives More Yes Votes.** Proposition 38 contains a section indicating that its provisions would prevail and the tax rate provisions of any other measure affecting sales or PIT rates—in this case Proposition 30—would not go into effect. Under this scenario, the spending reductions known as the “trigger cuts” would take effect as a result of Proposition 30’s tax increases not going into effect. (See the analysis of Proposition 30 for more information on the trigger cuts.)

Cannot Be Amended by the Legislature. If adopted by voters, this measure could be amended only by a future ballot measure. The Legislature would be prohibited from making any modifications to the measure without voter approval.

Fiscal Effect

Around \$10 Billion of Additional Annual State Revenues. In the initial years—beginning in 2013–14—the annual amount of additional state revenues raised would be around \$10 billion. (In 2012–13, the measure would result in additional state revenues of about half this amount.) The total revenues generated would tend to grow over time. Revenues generated in any particular year, however, could be much higher or lower than the prior year. This is mainly because the measure increases tax rates more for upper-income taxpayers. The income of these individuals tends to swing more significantly because it is affected to a much greater extent by changes in the stock market, housing prices, and other investments. Due to the swings in the income of these taxpayers and the uncertainty of their responses to the rate increases, the revenues raised by this measure are difficult to estimate.

SCHOOLS

Background

Most Public School Funding Tied to State Funding Formula. California provides educational services to about 6 million public school students. These students are served through more than 1,000 local educational agencies—primarily school districts. Most school funding is provided through the state’s school funding formula—commonly called the Proposition 98 minimum guarantee. (Community college funding also applies toward meeting the minimum guarantee.) The minimum guarantee is funded through a combination of state General Fund and local property tax revenues. In 2010–11, schools received \$43 billion from the school funding formula.

Most School Spending Decisions Are Made by Local Governing Boards. Roughly 70 percent of state-related school funding can be used for any

38

but a somewhat higher share could be used for state debt payments. This is because beginning in 2015–16, the measure: (1) limits the growth in total allocations to schools and ECE programs based on the average growth in California per capita personal income over the previous five years and (2) dedicates the funds collected above the growth rate to state debt payments. From 2017–18 through 2023–24, up to 85 percent of CETF funds would go to schools and up to 15 percent would go to ECE programs, with revenues in excess of the growth rate continuing to be used for state debt payments.

educational purpose. In most cases, the school district governing board decides how the funds should be spent. The governing board typically will determine the specific activities for which the funds will be used, as well as how the funds will be distributed among the district's school sites. The remaining 30 percent of funds must be used for specified purposes, such as serving school meals or transporting students to and from school. School districts typically have little flexibility in how to use these restricted funds.

Proposal

Under this measure, schools will receive roughly 60 percent of the revenues raised by the PIT rate increases through 2016–17 and roughly 85 percent annually thereafter. These CETF funds would be in addition to Proposition 98 General Fund support for schools. The funds support three grant programs. The measure also creates spending restrictions and reporting requirements related to these funds. These major provisions are discussed in more detail below.

Distributes School Funds Through Three Grant Programs. Proposition 38 requires that CETF school funds be allocated as follows:

- ***Educational Program Grants (70 Percent of Funds).*** The largest share of funds—70 percent of all CETF school funding—would be distributed based on the number of students at each school. The specific per-student grant, however, would depend on the grade of each student, with schools receiving more funds for students in higher grades. Educational program grants could be spent on a broad range of activities, including instruction, school support staff (such as counselors and librarians), and parent engagement.
- ***Low-Income Student Grants (18 Percent of Funds).*** The measure requires that 18 percent of CETF school funds be allocated at one statewide rate based on the number of low-income students (defined as the number of students eligible for free school meals) enrolled in each school. As with the educational program grants, low-income student grants could be spent on a broad range of educational activities.

- ***Training, Technology, and Teaching Materials Grants (12 Percent of Funds).*** The remaining 12 percent of funds would be allocated at one statewide rate based on the number of students at each school. The funds could be used only for training school staff and purchasing up-to-date technology and teaching materials.

Requires Funds Be Spent at Corresponding School Sites. Funds received by school districts from this measure must be spent at the specific school whose students generated the funds. In the case of low-income student grants, for example, if 100 percent of low-income students in a school district were located in one particular school, all low-income grant funds would need to be spent at that specific school. As with most other school funding, however, the local governing board would determine how CETF funds are spent at each school site. To ensure that Proposition 38 funds would result in a net increase in funding for all schools, the measure also would require school districts to make reasonable efforts to avoid reducing per-student funding from non-CETF sources at each school site below 2012–13 levels. If a school district reduces the per-student funding for any school site below the 2012–13 level, it must explain the reasons for the reduction in a public meeting held at or near the school.

Requires School Districts to Seek Public Input Prior to Making Spending Decisions. Proposition 38 also requires school district governing boards at an open public hearing to seek input from students, parents, teachers, administrators, and other school staff on how to spend CETF school funds. When the governing board decides how to spend the funds, it must explain—publicly and online—how CETF school expenditures will improve educational outcomes and how those improved outcomes will be measured.

Creates Budget Reporting Requirements for Each School. The measure also includes several reporting requirements for school districts. Most notably, beginning in 2012–13, the measure requires all school districts to create and publish an online budget for each of their schools. The budget must

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

show funding and expenditures at each school from all funding sources, broken down by various spending categories. The state Superintendent of Public Instruction must provide a uniform format for budgets to be reported and must make all school budgets available to the public, including data from previous years. In addition, school districts must provide a report on how CETF funds were spent at each of their schools within 60 days after the close of the school year.

Other Allowances and Prohibitions. The measure allows up to 1 percent of a school district's allocation to be spent on budgeting, reporting, and audit requirements. The measure prohibits CETF school funds from being used to provide salary or benefit increases unless the increases are provided to other like employees that are funded with non-CETF dollars. The measure also has a provision that prohibits CETF school monies from being used to replace state, local, or federal funding provided as of November 1, 2012.

Fiscal Effect

Provides Additional Funding for Schools. In the initial years, schools would receive roughly \$6 billion annually, or \$1,000 per student, from the measure. Of that amount, \$4.2 billion would be provided for education program grants, \$1.1 billion for low-income student grants, and \$700 million for training, technology, and teaching materials grants. (The 2013–14 amounts would be higher because the funds raised in 2012–13 also would be available for distribution.) The amounts available in future years would tend to grow over time. Beginning in 2017–18, the amount spent on schools would increase further as the amount required to be used for state debt payments decreases significantly.

EARLY CARE AND EDUCATION

Background

ECE Programs Serve Children Ages Five and Younger. Prior to attending kindergarten—which usually starts at age five—most California children attend some type of ECE program. Families participate in these programs for a variety of reasons,

including supervision of children while parents are working and development of a child's social and cognitive skills. Programs serving children ages birth to three typically are referred to as infant and toddler care. Programs serving three- to five-year-old children often are referred to as preschool and typically have an explicit focus on helping prepare children for kindergarten. Whereas all programs must meet basic health and safety standards to be licensed by the state, the specific characteristics of programs—including staff qualifications, adult-to-child ratios, curriculum, family fees, and cost of care—vary.

Some Children Are Eligible for Subsidized ECE Services. While many families pay to participate in ECE programs, public funds also subsidize services for some children. These subsidies generally are reserved for families that are low income, participate in welfare-to-work programs or other work or training activities, and/or have children with special needs. Generally, eligibility for ECE subsidies is limited to families that earn 70 percent or less than the state median income level (for example, currently the limit is \$3,518 per month for a family of three). The state pays a set per-child rate to providers for subsidized ECE “slots.” The payment rate varies by region of the state and care setting. It typically is about \$1,000 per month for full-time infant/toddler care and \$700 per month for full-time preschool.

Current Funding Levels Do Not Subsidize ECE Programs for All Eligible Children. In 2010–11, state and federal funds provided roughly \$2.6 billion to offer a variety of child care and preschool programs for approximately 500,000, or about 15 percent, of California children ages five and younger. Roughly half of all California children, however, meet income eligibility criteria for subsidized programs. Because state and federal ECE funding is not sufficient to provide subsidized services for all eligible children, waiting lists are common in most counties.

Proposal

As noted earlier, ECE programs will receive roughly 10 percent of the revenues raised by the PIT rate increases through 2016–17 and roughly 15

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

percent annually thereafter. The measure provides specific allocations of these funds, as summarized in Figure 3. As shown in the top part of the figure, up to 23 percent of the funds raised for ECE programs would be dedicated to restoring recent state budget reductions to child care slots and provider payment rates as well as implementing certain statewide activities designed to support the state's ECE system. The remaining ECE funds, shown in the bottom part of the figure, would expand child care and

preschool programs to serve more children from low-income families and increase payment rates for certain ECE providers. The measure also prohibits the state from reducing existing support for ECE programs. Specifically, the state would be required to spend the same proportion of state General Fund revenues for ECE programs in future years as it is spending in 2012–13 (roughly 1 percent). As described in more detail below, the measure includes extensive provisions relating to: (1) a rating system

Figure 3
Proposition 38's Early Care and Education (ECE) Provisions

Purpose/Description	Percent of ECE Funding ^a
"Restoration and System Improvement"	
Program Restorations —Partially restores state budget reductions made to existing subsidized ECE programs since 2008–09. Restorations would include serving more children, increasing how much a family can earn and still be eligible for benefits, and increasing state per-child payment rates.	19.4%
Rating System —Establishes system to assess and publicly rate ECE programs based on how they contribute to children's social/emotional development and academic preparation.	2.6
ECE Database —Establishes statewide database to collect and maintain information about children who attend state-funded ECE programs. Would include details about a child's ECE program as well as his/her performance on a kindergarten readiness assessment. Would be linked to state's K–12 database.	0.6
Licensing Inspections —Increases how frequently ECE programs receive health and safety inspections from the state licensing agency.	0.3
Subtotal	(23.0%)
"Strengthen and Expand ECE Programs"	
Services for Children Ages Three to Five —Expands subsidized preschool to more children from low-income families, prioritizing services in low-income neighborhoods.	51.6%
Services for Children Ages Birth to Three —Establishes new California Early Head Start program to provide child care and family support for young children from low-income families.	16.6
Provider Payment Rates —Provides supplemental per-child payments to state-subsidized ECE programs that receive higher scores on new rating scale, with most funding targeted for preschool programs. Also increases the existing per-child payment rate for all licensed state-subsidized ECE programs serving children ages birth to 18 months.	8.9
Subtotal	(77.0% ^b)
Total	100.0%

^a Because the amount dedicated to restoration and system improvement is capped at \$355 million, a slightly lower share of funding would go toward these activities and a slightly higher share toward strengthening and expanding ECE programs when the measure's debt service payments cease in 2017–18.

^b Not more than 3 percent of these funds can be used for state-level administrative costs. Not more than 15 percent of funding allocated to ECE providers can be used for facility costs.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

for evaluating ECE programs, (2) preschool, and (3) infant and toddler care.

Establishes Statewide Rating System to Assess the Quality of Individual ECE Programs. The measure requires the state to implement an “Early Learning Quality Rating and Improvement System” (QRIS) to assess the effectiveness of individual ECE programs. Building on initial work the state already has undertaken, the state would have until January 2014 to develop a scale to evaluate how well programs contribute to children’s social and emotional development and academic preparation. All ECE programs could choose to be rated on this scale, and ratings would be available to the public. The state also would develop a training program to help providers improve their services and increase their ratings. Additionally, Proposition 38 would provide supplemental payments—on top of existing per-child subsidy rates—to child care and preschool programs that achieve higher scores on the QRIS scale.

Provides Preschool to More Children From Low-Income Families. Proposition 38 expands the number of slots available in state-subsidized preschool programs located in neighborhoods with high concentrations of low-income families. Funding to offer these new slots would only be available to preschool providers with higher quality ratings. Funding would be allocated to providers based on the estimated number of eligible children living in the targeted neighborhoods who do not currently attend preschool. (At least 65 percent of these new slots must be in programs that offer full-day, full-year services.) Program participation would be limited to children meeting existing family income eligibility criteria or living in the targeted

neighborhoods regardless of family income, with highest priority given to certain at-risk children (including those in foster care).

Establishes New Program for Infants and Toddlers From Low-Income Families. Proposition 38 establishes the California Early Head Start (EHS) program, modeled after the federal program of the same name. Up to 65 percent of funding for this program would offer both child care and family support services to low-income families with children ages birth to three. (At least 75 percent of these new slots must be for full-day, full-year care.) At least 35 percent of EHS funding would provide support services for families and caregivers not participating in the child care component of the program. In both cases, family support services could include home visits from program staff, assessments of child development, family literacy programs, and parent and caregiver training.

Fiscal Effect

Provides Additional Funding to Support and Expand ECE Programs. In the initial years, roughly \$1 billion annually from the measure would be used for the state’s ECE system. (The 2013–14 amount would be higher because the funds raised in 2012–13 also would be available for distribution.) The majority of funding would be dedicated to expanding child care and preschool—serving roughly an additional 10,000 infants/toddlers and 90,000 preschoolers in the initial years of implementation. The amount available in future years would tend to grow over time. Beginning in 2017–18, the amount spent on ECE programs would increase further as the amount required to be used for state debt payments decreases significantly.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

STATE DEBT PAYMENTS

Background

General Obligation Bond Debt Payments. Bond financing is a type of long-term borrowing that the state uses to raise money, primarily for long-lived infrastructure (including school and university buildings, highways, streets and roads, land and wildlife conservation, and water-related facilities). The state obtains this money by selling bonds to investors. In exchange, the state promises to repay this money, with interest, according to a specified schedule. The majority of the state's bonds are general obligation bonds, which must be approved by the voters and are guaranteed by the state's general taxing power. General obligation bonds are typically paid off with annual debt-service payments from the General Fund. In 2010–11, the state made \$4.7 billion in general obligation bond debt-service payments. Of that amount, \$3.2 billion was to pay for debt service on school and university facilities.

Proposal

At Least 30 Percent of Revenues for Debt-Service Relief Through 2016–17. Until the end of 2016–17, at least 30 percent of Proposition 38 revenues would be used by the state to pay debt-service costs. The measure requires that these funds first be used to pay education debt-service costs (pre-kindergarten through university school facilities). If, however, funds remain after paying annual education debt-service costs, the funds can be used to pay other state general obligation bond debt-service costs.

Limits Growth of School and ECE Allocations Beginning 2015–16, Uses Excess Funds for Debt-Service Payments. Beginning in 2015–16, total CETF allocations to schools and ECE programs could not increase at a rate greater than the average growth in California per capita personal income over the previous five years. The CETF monies collected in excess of this growth rate also would be used for state debt payments. (The measure provides an exception for 2017–18, given the changes in the revenue allocations.)

Fiscal Effect

General Fund Savings of Roughly \$3 Billion Annually Through 2016–17. Until the end of 2016–17, at least 30 percent of the revenue raised by the measure—roughly \$3 billion annually—would be used to pay general obligation debt-service costs and provide state General Fund savings. This would free up General Fund revenues for other public programs and make it easier to balance the budget in these years.

Potential Additional General Fund Savings Beginning in 2015–16. The measure's growth limit provisions also would provide General Fund savings in certain years. The amount of any savings would vary from year to year depending on the growth of PIT revenue and per capita personal income but could be several hundred million dollars annually.

★ **ARGUMENT IN FAVOR OF PROPOSITION 38** ★

Education is our future because children are our future. Without quality schools, our state will lack the skilled workforce needed to grow our economy and create jobs.

Instead of investing in our schools, political leaders from both parties have been cutting. Since 2008, they've cut school budgets by \$20 billion. Over 40,000 educators have been laid off, and California now has the largest class sizes in the nation.

RESTORE AND EXPAND SCHOOL FUNDING.

Proposition 38 makes schools a priority again. It provides guaranteed funding to restore a well-rounded education and improve educational outcomes.

It guarantees billions of dollars to local schools based on enrollment, averaging \$10 billion annually over twelve years.

School sites can use the money to reduce class sizes or restore classes in art, music, math, science, vocational and technical education and college preparation—based on different needs at different schools.

Learn how much new funding Proposition 38 sends directly to schools in your community at: www.moneyforlocalschools.org/restore.

PREVENT MORE CUTS.

Proposition 38 helps prevent more budget cuts by setting aside \$3 billion annually through 2016–17 to reduce the state deficit by repaying state education bond debt.

PREPARE CHILDREN TO SUCCEED.

38 provides over \$1.1 billion annually to restore budget cuts to early childhood education, improve quality, and expand access to preschool.

A FAIR-SHARE WAY TO INVEST IN OUR SCHOOLS.

As Californians, we should all contribute something to improve our schools because we will all share in the benefits better schools will bring to our state's economy and quality of life.

Proposition 38 provides \$10 billion annually to restore school funding by raising state tax rates on income after all deductions,

using a sliding scale based on ability to pay. The wealthiest taxpayers pay the most, with rates rising 2.2% for individuals on incomes over \$2.5 million. At the low end, taxpayers with incomes under \$25,000 would pay an annual average of \$7.00.

Learn how Proposition 38 affects taxpayers like you at: www.moneyforlocalschools.org/taxcalculator.

FIVE GUARANTEES TO PARENTS AND TAXPAYERS:

- *The Legislature can't touch the money.* 38 PROHIBITS the Legislature from diverting or borrowing the money, and it cannot use the new money to replace money schools currently receive.
- *School funding MUST go per pupil to every school and must be spent at the school.* The funds will be audited and any attempted misallocation is a felony punishable by jail time and a ban on holding public office.
- *The money CANNOT be spent to increase salaries or pensions of school personnel,* and 38 prohibits spending more than 1% on administration.
- *Spending decisions will be made locally, after public input.* Districts MUST hold open meetings at each school site to get input from parents, educators and the community before spending the money.
- *School districts will be accountable for improvement at each school.* They MUST set annual educational improvement goals for each school, and publicly report how the money was spent and whether improvement goals were achieved.

MAKE SCHOOLS A PRIORITY AGAIN. YES ON 38.

CAROL KOCIVAR, President

California State Parent Teacher Association

EDWARD JAMES OLMOS, Actor

ARUN RAMANATHAN, Executive Director
Education Trust-West

★ **REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 38** ★

We all want better schools.

But throwing \$120 BILLION NEW TAX DOLLARS into a new unaccountable state bureaucracy will not bring back quality education for our children.

Instead of reforming the system, cleaning up waste and abuses, Prop. 38 raises taxes and throws more money into an unaccountable bureaucracy:

- Prop. 38 is a massive income tax hike for middle class taxpayers and small businesses. If you earn \$8,000 or more per year in taxable income, your rates go up by as much as 21% for the next TWELVE YEARS.
- Prop. 38 will damage small businesses by drastically raising taxes on family businesses that file and pay income taxes as individuals, not as corporations.
- Prop. 38 kills jobs in small and family businesses where most job growth is taking place. California has the third-highest unemployment rate in the country.
- Prop. 38 can't be changed for twelve years—even in the case of fraud or waste.

- Prop. 38 gives Sacramento politicians \$3 billion a year for four years to spend as they choose.
- Prop. 38 creates a costly new bureaucracy by forcing schools to go through complex red tape just to receive basic funding, and mandates new programs while necessary school functions have been cut back.
- Prop. 38 does virtually nothing to improve student performance.

Join California educators, doctors, law enforcement officials, taxpayer organizations and small business leaders in voting No on 38. www.StoptheMiddleClassTaxHike.com.

ANDREW WONG, Member

Pomona Unified School District, Board of Education

KEITH ROYAL, President

California State Sheriffs' Association

RICHARD RIDER, Chairman

San Diego Tax Fighters

★ **ARGUMENT AGAINST PROPOSITION 38** ★

No on Prop. 38:

\$120 Billion Income Tax Hike on Most Californians

If you earn \$17,346 or more per year in taxable income, Prop. 38 raises your California personal income tax rate by as much as 21%, on top of what you pay the Federal government.

The Prop. 38 tax increase continues until 2024. If you have a child entering first grade, you'll be paying higher income taxes until that child graduates from high school.

Even as the economy improves and more people get back to work, the tax increases continue. Even without necessary reforms to our education system, like the ability to fire bad teachers, the tax increases still continue. Prop. 38 locks us into higher income tax rates for the next twelve years—no matter what!

The politicians and bureaucrats get billions of dollars in new taxes, with virtually no accountability on how the money is spent and how much actually gets into the classroom.

Targets Small Business and Kills Jobs

Approximately 3.8 million California small businesses pay individual taxes on their earnings, rather than corporate taxes. Consequently, small businesses will be devastated by these higher taxes—even businesses making as little as \$30,000 or \$40,000 a year.

Instead of creating jobs and improving the economy, Prop. 38 will force family businesses to cut jobs, move out of state, or even close. If they can stay in business, they'll raise prices to pay the higher taxes, which will ultimately be passed on to consumers.

No Requirements to Improve School Performance

Under 38, there are no requirements to improve school performance or get rid of bad teachers. Too much money will continue to be spent on administration, consultants, pensions, benefits and overhead and too little will be spent in the

classroom. Currently, 24% of California students don't graduate from high school. Prop. 38 pours more money into a system that is failing our kids without requiring improvements in outcomes for students.

No Changes, Even for Fraud or Waste, for Twelve Years

Prop. 38 contains a special provision hidden in its twenty-seven pages of fine print that prohibits any changes in the measure through 2024 (without another vote of the people), even in the case of waste, fraud or abuse.

\$120 Billion in New Taxes, but Nothing to Reduce Our Deficit

Prop. 38 allows the politicians in Sacramento to keep spending. There is nothing in Prop. 38 that requires any of the funds to be used specifically for deficit reduction and nothing that stops the politicians from getting us back into the same mess we're in now, even with \$120 billion in new taxes.

No on Prop. 38:

- 27 pages of fine print and flaws
- \$120 billion in higher taxes
- Increases income taxes for taxable incomes above \$17,346
- Damages small business and kills jobs
- No Requirements to Improve School Performance
- Can't be changed for twelve years—even for fraud or waste—without another vote

No on Prop. 38—Another flawed, costly and misleading initiative.

ALLAN ZAREMBERG, President

California Chamber of Commerce

KEN WILLIAMS, Member

Orange County Board of Education

THOMAS HUDSON, Executive Director

California Taxpayer Protection Committee

★ **REBUTTAL TO ARGUMENT AGAINST PROPOSITION 38** ★

Our schools are in trouble. \$20 billion in budget cuts. 47th out of 50 states in per pupil spending. 40,000 educators laid off. Instead of prioritizing education, politicians are cutting back.

Prop. 38 offers a solution. Its opponents offer no solutions, only misleading attacks.

- Don't believe the scare tactics about taxes. Under 38, tax rates on income go up between 0.4% and 2.2%, not 21%.
- Small businesses earning \$30,000 to \$40,000 will NOT be "devastated." 38's average increase for incomes between \$25,000 and \$50,000 is \$54.
- 38's money for schools MUST go per pupil to every local school site. It MUST be spent there—where the students are—and it MUST be used to improve student outcomes. SACRAMENTO POLITICIANS CANNOT TOUCH THE MONEY.
- 38 PROHIBITS using the school money to increase salaries, pensions or other benefits; spending on administration CANNOT exceed 1%.
- There is real accountability. 38 REQUIRES publicly disclosed independent audits and reports on educational results. Attempted misallocation is a felony.

- VOTERS can amend 38, but NOT POLITICIANS. This protects 38's guarantee that the Legislature cannot divert money away from schools.

Proposition 38 guarantees schools new funding averaging \$10 billion annually for twelve years to restore cuts and improve educational outcomes.

We rely on public schools to educate our children and provide employers with skilled, productive employees. Failing to invest in schools hurts our children and our economy.

Read 38 for yourself at prop38forlocalschools.org.
Make schools a priority. Yes on 38.

CELIA JAFFE, President

4th District PTA, Orange County

ALEX KAJITANI

2009 California Teacher of the Year

TINA REPETTI-REZZULLO

2010–2011 Los Angeles County Teacher of the Year

necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss, or to show, or tending to show, unique or special individual injury or damages.

(b) In addition to the injunctive relief provided in subdivision (a), the court may award to that person, organization, or entity reasonable attorney's fees *and all reasonable costs incurred in investigating and prosecuting the action* as determined by the court.

(c) This section shall not be construed to limit or alter the powers of the department and its authorized agents to bring an action to enforce this chapter pursuant to Section 111900 or any other provision of law.

SEC. 5. MISBRANDING

Section 110663 is added to the Health and Safety Code, to read:

110663. Any food is misbranded if its labeling does not conform to the requirements of Section 110809 or 110809.1.

SEC. 6. SEVERABILITY

If any provision of this initiative or the application thereof is for any reason held to be invalid or unconstitutional, that shall not affect other provisions or applications of the initiative that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this initiative are severable.

SEC. 7. CONSTRUCTION WITH OTHER LAWS

This initiative shall be construed to supplement, not to supersede, the requirements of any federal or California statute or regulation that provides for less stringent or less complete labeling of any raw agricultural commodity or processed food subject to the provisions of this initiative.

SEC. 8. EFFECTIVE DATE

This initiative shall become effective upon enactment pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 9. CONFLICTING MEASURES

In the event that another measure or measures appearing on the same statewide ballot impose additional requirements relating to the production, sale and/or labeling of genetically engineered food, then the provisions of the other measure or measures, if approved by the voters, shall be harmonized with the provisions of this act, provided that the provisions of the other measure or measures do not prevent or excuse compliance with the requirements of this act.

In the event that the provisions of the other measure or measures prevent or excuse compliance with the provisions of this act, and this act receives a greater number of affirmative votes, then the provisions of this act shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 10. AMENDMENTS

This initiative may be amended by the Legislature, but only to further its intent and purpose, by a statute passed by a two-thirds vote in each house.

PROPOSITION 38

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Education Code, the Penal Code, and the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS AND EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT

SECTION 1. Title.

This measure shall be known and may be cited as "Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act."

SEC. 2. Findings and Declaration of Purpose.

(a) California is shortchanging the future of our children and our state. Today, our state ranks 46th nationally in what we invest to educate each student. California also ranks dead last, 50th out of 50 states, with the largest class sizes in the nation.

(b) Recent budget cuts are putting our schools even farther behind. Over the last three years, more than \$20 billion has been cut from California schools; essential programs and services that all children need to be successful have been eliminated or cut; and over 40,000 educators have been laid off.

(c) We are also failing with our early childhood development programs, which many studies confirm are one of the best educational investments we can make. Our underfunded public preschool programs serve only 40 percent of eligible three- and four-year olds. Only 5 percent of very low income infants and toddlers, who need the support most, have access to early childhood programs.

(d) We can and must do better. Children are our future. Investing in our schools and early childhood programs to prepare children to succeed is the best thing we can do for our children and the future of our economy and our state. Without a quality education, our children will not be able to compete in a global economy. Without a skilled workforce, our state will not be able to compete for jobs. We owe it to our children and to ourselves to improve our children's education.

(e) It is time to make a real difference: no more half-measures but real, transformative investment in the schools on which the future of our state and our families depends. This act will enable schools to provide a well-rounded education that supports college and career readiness for every student, including a high-quality curriculum of the arts, music, physical education, science, technology, engineering, math, and vocational and technical education courses; smaller class sizes; school libraries, school nurses, and counselors.

(f) This act requires that decisions about how best to use new funds to improve our schools must be made not in Sacramento, but locally, with respect for the voices of parents, teachers, other school staff, and community members. It requires local school

boards to work with parents, teachers, other school staff, and community members to decide what is most needed at each particular school.

(g) In order for all our schools to be transformed, so that all our children benefit, this act makes sure that new funding gets to every local school—including charter schools, county schools, and schools for children with special needs—and is allocated fairly and transparently. New funding will be allocated to every local school on a per-pupil basis, with funds required to be spent at local schools, not district headquarters.

(h) This measure holds local school boards accountable for how they spend new taxpayer money. They are required to explain how expenditures will improve educational outcomes and how they propose to determine whether the expenditures were successful. They will be required to report back on what results were achieved so that parents, teachers, and the community will know whether their money is being used wisely.

(i) This act limits what schools can spend from these new funds on administrative costs to no more than 1 percent and ensures schools may not use these new funds to increase salaries and benefits.

(j) This act will help prepare disadvantaged young children to succeed in school and in life by raising standards for early childhood education programs and by expanding the number of children who can attend.

(k) As Californians, we all should share in the cost of improving our schools and early education programs because we all share in the benefits that better schools and a well-educated workforce will bring to our economy and the quality of life in our state.

(l) Our schools and early childhood programs have suffered from years of being shortchanged. Rather than allow further cutbacks, we need to increase funding to provide every child an opportunity to succeed. If we all join together to send more resources to all our children and classrooms, and we all participate in ensuring good decisions are made about how to use these funds effectively, we can once again make California schools great and grow our economy.

(m) This measure raises the money needed to invest in our children through a sliding scale income tax increase which varies with taxpayers' ability to pay, with the highest income earners contributing the most.

(n) During the first four years of this initiative, as described below, 60 percent of the funds will go to K–12 schools, 10 percent will go to early education and 30 percent will go to reduce state debt and prevent further harmful budget cuts that could undermine these new educational investments. For the remaining eight years of the initiative, from 2017 on, 100 percent of the funds will go to increase K–12 and early education funding. To avoid wide fluctuations in revenue and ensure continued investment in needed school and early education facilities, any revenues that exceed the rate of growth of California per capita personal income will be used to help service and pay down existing state education bond debt, ensuring California's ability to issue new bonds, as needed, to build and modernize school and early education facilities.

(o) All the new money raised by this initiative will be put in

a separate trust fund that can *only* be spent for local schools, for early childhood care and education, and to help service and retire school bond debt, according to the provisions of this act. The Legislature and the Governor will not be allowed to use this money for anything else, nor will they be able to change the per-pupil allocation system that ensures money flows fairly to every local school.

(p) This initiative contains tough, effective accountability provisions that require oversight, audits, and public disclosure. For the first time, we will have transparent schoolsite budgets and know exactly how our money is being spent in every school. Anyone who knowingly violates the allocation or distribution provisions of this act will be guilty of a felony.

(q) The initiative also builds in an extra layer of accountability by ending the tax after 12 years unless it is re-approved by the voters. That gives our schools enough time to show that the new funds have actually improved educational outcomes, while protecting taxpayers by eliminating the tax if voters decide they don't want to keep it.

(r) This initiative will be taking effect as California grapples with one of the worst economic downturns in its history. If the initiative were fully implemented immediately and nothing were done to help close our state's budget deficit, continuing extreme budget cuts could deprive our schools and children of the support they need to fully benefit from the educational investments provided by this act. Therefore, this initiative will be implemented in two phases. For the first four fiscal years, until the end of 2016–17, 30 percent of the funds—about \$3 billion—will go to service and retire state school bond and other bond debt, freeing up a like amount to meet other budget needs critical to the overall well-being of children and the families and communities in which they live. Beginning in the 2017–18 fiscal year, the initiative will be fully implemented, and 100 percent of the funds will be new money, which cannot be used in place of Proposition 98 or any other current funding for K–12 education or early childhood programs. The result of this phased approach will be that, beginning immediately, 70 percent of the funds will be used to increase funding for schools and early education programs as required by this act, and after four years, all of the funds—100 percent—must be spent for that purpose to fulfill our obligation to our children and our future.

SEC. 3. Purpose and Intent.

The people of the State of California declare that this act is intended to do the following:

(a) To strengthen and support California's public schools, including charter schools, by increasing per-pupil funding to improve academic performance, graduation rates, and vocational, college, career, and life readiness.

(b) To strengthen and support the education of California's children by restoring funding, improving quality, and expanding access to early care and education programs for disadvantaged and at-risk children.

(c) To create more accountability, transparency, and community involvement in how public education funds are spent.

(d) To ensure that the revenues generated by this act will be used for K–12 educational activities at the schoolsite; to expand

and strengthen early care and education for disadvantaged children; and, to the limited extent and under the limited circumstances specifically permitted by this act, to strengthen the overall fiscal position of the state and encourage adequate future investment in educational facilities by reducing the burden of current state education bond debt.

(e) To ensure that the revenues generated by this act cannot be used to supplant existing state funding for K–12 education or early care and education.

(f) To ensure that the Legislature cannot borrow or divert the revenues generated by this act for any other purpose, nor dictate to local school communities how those funds shall be spent.

SEC. 4. Part 9.7 (commencing with Section 14800) is added to Division 1 of Title 1 of the Education Code, to read:

PART 9.7. OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS, EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT

14800. This part shall be known and may be cited as the Our Children, Our Future: Local Schools, Early Education Investment, and Bond Debt Reduction Act.

14800.5. For purposes of this part, and of Chapter 1.8 (commencing with Section 8160) of Part 6 of Division 1 of Title 1, the following definitions apply:

(a) “Local education agency” or “LEA” includes school districts, county offices of education, governing boards of independent public charter schools, and the governing bodies of direct instructional services provided by the state, including the California Schools for the Deaf and the California School for the Blind.

(b) “K–12 school” or “school” means any public school, including but without limitation any charter school, county school, or school for special needs children, that annually enrolls, and provides direct instructional services to, pupils in any or all of grades kindergarten through 12 and that is under the operational jurisdiction of any LEA. The term “kindergarten” in this part includes transitional kindergarten.

(c) “Early care and education” or “ECE” means preschool and other programs that are designed to care for and further the education of children from birth to kindergarten eligibility, including both programs providing early care and education to children and programs that strengthen the early care and education capacity of parents and caregivers so that they can better serve children.

(d) For the 2013–14 school year, a school’s “enrollment” means the October enrollment figures reported for the 2012–13 school year, reduced or increased by the average percentage growth or decline in its October enrollment figures over the past three school years. For all subsequent years, a school’s “enrollment” means the average monthly active enrollment for the prior school year calculated pursuant to Section 46305, or the October enrollment for the prior school year if the Section 46305 figure is not available, reduced or increased by the average percentage growth or decline in these enrollment figures over the past three school years. Each LEA’s enrollment shall be the sum of enrollments at all schools under that LEA’s jurisdiction. Statewide enrollment shall be the sum of all LEAs’ enrollments.

(e) “Educational program” means expenditures for the

following purposes at a K–12 schoolsite, approved at a public hearing by the governing board of the LEA with jurisdiction over the school, to improve the pupils’ academic performance, graduation rates, and vocational, career, college, and life readiness:

(1) *Instruction in the arts, physical education, science, technology, engineering, mathematics, history, civics, financial literacy, English and foreign languages, and technical, vocational, or career education.*

(2) *Smaller class sizes.*

(3) *More counselors, librarians, school nurses, and other support staff at the schoolsite.*

(4) *Extended learning time through longer school days or longer school years, summer school, preschool, after school enrichment programs, and tutoring.*

(5) *Additional social and academic support for English language learners, low-income pupils, and pupils with special needs.*

(6) *Alternative education models that build pupils’ capacity for critical thinking and creativity.*

(7) *More communication and engagement with parents as true partners with schools in helping all children succeed.*

(f) “CETF funds” means those revenues deposited in the California Education Trust Fund pursuant to Section 17041.1 of the Revenue and Taxation Code, together with all interest earned on those funds pending their initial allocation and all interest earned on any recaptured funds pending their reallocation.

(g) “Superintendent” means the Superintendent of Public Instruction.

14801. (a) The California Education Trust Fund (CETF) is hereby created in the State Treasury. CETF funds are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this act.

(b) *CETF funds transferred and allocated to or from the California Education Trust Fund shall not constitute appropriations subject to limitation for purposes of Article XIII B of the California Constitution. CETF funds are held in trust for purposes of this Act only and shall not be considered General Fund revenues or proceeds of taxes, and thus shall not be included in the calculations required by Section 8 of Article XVI, nor subject to the provisions of Section 12 of Article IV or Section 20 of Article XVI, of the California Constitution.*

(c) *CETF funds shall be allocated and used exclusively as set forth in this act and shall not be used to pay administrative costs except as specifically authorized by the act. Notwithstanding any other provision of law, CETF funds shall not be transferred or loaned to the General Fund or to any other fund, person, or entity for any purpose or at any time except as expressly permitted in Section 14813.*

(d) *CETF funds allocated to LEAs and the Superintendent from the CETF shall supplement state, local, and federal funds committed for public K–12 schools and early care and education as of November 1, 2012, and shall not be used to supplant or replace the per capita state, local, or federal funding levels that were in place for these purposes as of that date,*

corrected for changes in the cost of living and, with respect to federal funds, for any overall decline in federal funding availability. The amounts appropriated from funds other than the CETF for support of the K–12 education system and early care and education programs, whether constitutionally mandated or otherwise, shall not be reduced as a result of funds allocated pursuant to this act.

14802. (a) The Fiscal Oversight Board is hereby created to provide oversight and accountability in the distribution and use of all CETF funds. The members of the board are the Controller, the State Auditor, the Treasurer, the Attorney General, and the Director of Finance. The Fiscal Oversight Board shall be responsible for ensuring that CETF funds are distributed exactly as provided by this part and are used solely for the purposes set forth in this part.

(b) Notwithstanding any other provision of law, the actual costs incurred by the Fiscal Oversight Board, the Controller, and the Superintendent in administering the California Education Trust Fund shall be paid by CETF funds; provided, however, that such costs may not exceed three-tenths of 1 percent of all revenues collected in the fund over any three-year period, an average of one-tenth of 1 percent annually. Until the end of fiscal year 2016–17, 30 percent of the costs authorized by this section shall be deducted from the temporary support funds provided pursuant to Section 14802.1, 60 percent of the costs authorized by this section shall be deducted from the funds set aside for K–12 pursuant to Section 14803, and 10 percent of the costs authorized by this section shall be deducted from the funds set aside for ECE pursuant to Section 14803. Thereafter, 85 percent of the costs authorized by this section shall be deducted from the funds set aside for K–12, and 15 percent shall be deducted from the funds set aside for ECE, pursuant to Section 14803.

(c) The Fiscal Oversight Board may adopt such regulations, including emergency regulations, as are necessary to fulfill its obligations under this act.

14802.1. (a) Until the end of the 2016–17 fiscal year, the Controller shall allocate 30 percent of CETF funds as provided in this section and the remainder in accordance with Sections 14803, 14804, 14805, 14806, and 14807. Thereafter, all CETF funds shall be allocated pursuant to Sections 14803, 14804, 14805, 14806, and 14807.

(b) Until the end of the 2016–17 fiscal year, the term “CETF funds” as used in Section 14803 shall refer to the 70 percent of CETF funds that are allocated in accordance with Sections 14803, 14804, 14805, 14806, and 14808, and the term “temporary support funds” shall refer to the 30 percent of CETF funds that are allocated pursuant to this section.

(c) Until the end of the 2016–17 fiscal year, on a quarterly basis, the Controller shall draw warrants on and distribute the temporary support funds to the Education Debt Service Fund established by Section 14813 for distribution pursuant to that section.

14803. (a) During the first two full fiscal years following the effective date of this act, the Controller shall set aside 85 percent of CETF funds for allocation to local educational agencies for K–12 schools, and 15 percent of CETF funds for allocation to the Superintendent for provision to early care and

education programs, in the amounts and manner set forth in this act. These funds, minus actual costs pursuant to subdivision (b) of Section 14802, shall be deemed “available revenues” under Section 14804.

(b) In order to provide stability and avoid wide fluctuations in funding, CETF funds shall be distributed as follows in each fiscal year subsequent to the first two full fiscal years following the effective date of this act:

(1) (A) Commencing with the 2015–16 fiscal year and for every year other than the 2017–18 fiscal year, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the CETF funds that were distributed to LEAs and the Superintendent from the California Education Trust Fund in the fiscal year that just ended.

(B) For the 2017–18 fiscal year only, in order to make the transition from the temporary support funds provided by subdivision (a) of Section 14802.1 to full funding of K–12 schools and ECE programs, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the product of 1.429 times the amount of CETF funds that were distributed to LEAs and the Superintendent from the California Education Trust Fund in the fiscal year that just ended.

(2) The amount determined pursuant to paragraph (1), minus actual costs pursuant to subdivision (b) of Section 14802, shall be deemed “available revenues” under Section 14804 and shall be available for distribution on a quarterly basis to LEAs and the Superintendent in the fiscal year then beginning.

(c) CETF funds that exceed available revenues shall be distributed at the end of the fiscal year pursuant to Section 14813.

(d) All CETF funds allocated to LEAs shall be spent by LEAs within one year of receipt; provided, however, that LEAs may carry over no more than 10 percent of these moneys for expenditure in the following school year. The Fiscal Oversight Board shall recapture any funds not expended within the original one-year period and any funds carried over but not spent within the following year. All funds that are recaptured shall be deemed available revenues, shall be combined with other available revenues, and shall be reallocated in accordance with Section 14804.

14804. (a) On a quarterly basis, the Controller shall draw warrants on and distribute 15 percent of the available revenues to the Superintendent for provision to early care and education programs and supports in the manner and amounts provided by Chapter 1.8 (commencing with Section 8160) of Part 6.

(b) On a quarterly basis, the Controller shall draw warrants on and distribute 85 percent of the available revenues to LEAs, earmarked for expenditure at each K–12 school within each LEA’s jurisdiction, in the amounts calculated by the Controller pursuant to Sections 14805 to 14807, inclusive.

(c) This section, and Sections 14802.1, 14803, 14805, 14806, and 14807, are self-executing and require no legislative action to take effect. Distribution of CETF funds and temporary

support funds shall not be delayed or otherwise affected by failure of the Legislature and the Governor to enact an annual Budget Bill pursuant to Section 12 of Article IV of the California Constitution, nor by any other action or inaction on the part of the Governor or the Legislature.

14805. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 70 percent as per-pupil educational program grants. The number and size of the educational program grants to be distributed to each LEA, and the number and size of the educational program grants to be earmarked for each K–12 school under the LEA's jurisdiction, shall be as follows:

(a) The Controller shall establish a uniform, statewide per-pupil grant for each of the following three grade level groupings: kindergarten through 3rd grade, inclusive (the “K–3 grant”), 4th through 8th grade, inclusive (the “4–8 grant”), and 9th through 12th grade, inclusive (the “9–12 grant”).

(b) These uniform grants shall be based on total statewide enrollment in each of the three grade level groupings. The per-pupil 4–8 grant amount shall be 120 percent of the per-pupil K–3 grant amount, and the per-pupil 9–12 grant amount shall be 140 percent of the per-pupil K–3 grant amount.

(c) Each LEA shall receive the same number of K–3 grants as it has enrollment in kindergarten through 3rd grade, inclusive; the same number of 4–8 grants as it has enrollment in 4th through 8th grade, inclusive; and the same number of 9–12 grants as it has enrollment in 9th through 12th grade, inclusive.

(d) Each of these per-pupil grants shall be earmarked for the specific K–12 school whose enrollment gave rise to the LEA's eligibility for that grant.

(e) The grade level adjustments provided in subdivisions (a) and (b) shall be the only deviation allowed in the equal per-pupil distribution of the educational program funds to all K–12 schools according to their enrollments.

14806. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 18 percent as low-income per-pupil grants. The number and size of the low-income per-pupil grants to be distributed to each eligible LEA, and the number and size of the low-income per-pupil grants to be earmarked for each K–12 school under the LEA's jurisdiction, shall be as follows:

(a) Based on the total statewide enrollment of pupils in all K–12 schools who are identified as eligible for free meals under the Income Eligibility Guidelines established by the United States Department of Agriculture to implement the federal Richard B. Russell National School Lunch Act and the federal Child Nutrition Act of 1966 (“free meal eligible pupils”), the Controller shall establish a uniform, statewide per-pupil grant to provide additional educational support for these low-income pupils (“the low-income per-pupil grant”).

(b) Each LEA shall receive the same number of low-income per-pupil grants as it has free-meal-eligible pupils.

(c) Each of these low-income per-pupil grants shall be earmarked for the specific K–12 school whose free meal eligible pupil enrollment gave rise to the LEA's eligibility for that grant.

14807. Of the available revenues allocated for quarterly

distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 12 percent for training, technology, and teaching materials grants on a per-pupil basis. The number and size of these grants to be distributed to each LEA, and the number and size of the grants to be earmarked for each K–12 school under the LEA's jurisdiction, shall be as follows:

(a) Based on total statewide enrollment for all K–12 schools, the Controller shall establish a uniform, statewide per-pupil grant to support increased instructional skills for K–12 school staff and up-to-date technology and teaching materials (“training, technology, and teaching materials grants” or “3T grants”).

(b) Each LEA shall receive the same number of 3T grants as it has pupils, based on the LEA's enrollment.

(c) Each of these per-pupil 3T grants shall be earmarked for the specific K–12 school whose enrollment gave rise to the LEA's eligibility for that grant.

14808. (a) With the limited exceptions provided in paragraph (2) of subdivision (c), funds LEAs receive pursuant to Sections 14805, 14806, and 14807 shall be expended or encumbered only at the specific K–12 school for which they were earmarked pursuant to subdivision (d) of Section 14805, subdivision (c) of Section 14806, and subdivision (c) of Section 14807, respectively, and shall be used exclusively for purposes authorized by this section.

(b) Educational program and low-income pupil grants may be used for educational programs or, up to a total of 200 percent of any school's 3T grants, for any purpose permitted for a 3T grant. 3T grants shall be spent exclusively for up-to-date teaching materials and technology and to strengthen skills of school staff in ways that improve pupils' academic performance, graduation rates, and vocational, career, college, and life readiness.

(c) (1) Other than as specifically provided for in paragraph (2), all funds received pursuant to Sections 14805 to 14807, inclusive, shall be spent only for the direct provision of services or materials at K–12 schoolsites and shall not be spent on any service or material not physically delivered to the school or its pupils; nor for any full-time personnel who do not spend at least 90 percent of their compensated time physically present at the school or with the school's pupils; nor for any personnel except to cover the amount of time the personnel are physically present at the school or with the school's pupils; nor for any direct or indirect administrative costs incurred by the LEA.

(2) (A) The governing board of each LEA may withhold, on an equal percentage basis from each of the per-pupil grants it receives, an amount sufficient to cover its actual costs in complying with this part's public meeting, audit, budget, and reporting requirements. Funds withheld for such purposes shall not exceed 2 percent of total grants received in any two-year period, an average of 1 percent per year.

(B) Costs of skills improvement programs provided off site to members of the school's staff specifically to enhance their skills in providing services at the site or to the school's pupils may be covered by these per-pupil grants, when the offsite provision of such services is more cost effective than onsite provision.

(d) No CETF funds shall be used to increase salary or benefits for any personnel or category of personnel beyond the

salary and benefits that were in place for those personnel or that category of personnel as of November 1, 2012; provided, however, that positions partially or totally funded by this act may receive from CETF funds salary and benefit increases adopted by a governing board and equivalent to increases being received by other like employees in the school on a proportional basis to their partial or full-time status.

14809. No later than 30 days following each quarterly allocation of CETF funds to LEAs, the Fiscal Oversight Board shall create a list of each LEA that received funds and the amount of funds earmarked for each school within that LEA under each of the funding categories specified in Sections 14805, 14806, and 14807. The board shall publish this list online at a suitable location, and the Superintendent shall publish a link to the online listing in a prominent spot on the home page of the Superintendent's Internet Web site.

14810. Neither the Legislature nor the Governor, nor any other state or local governmental body except the governing board of the LEA that has operational jurisdiction over a school, shall direct how CETF funds are used at that school. Each LEA's governing board shall have sole authority over that decision, subject, however, to the following:

(a) Each year the governing board, in person or through appropriate representatives, shall seek input, at an open public meeting with the school's parents, teachers, administrators, other school staff, and pupils, as appropriate (the "school community"), at or near that school's site, about how CETF funds will be used at that school and why.

(b) Following that meeting, the LEA or its appropriate representatives shall offer a written recommendation for use of CETF funds at a second open public meeting at or near the schoolsite at which the school community is given an opportunity to respond to the LEA's recommendation.

(c) The governing board shall ensure that, during the decisionmaking process regarding use of CETF funds, all members of the school community are provided an opportunity to submit input in writing or online.

(d) At the time it makes its decision about the use of the funds each year, the governing board shall explain, publicly and online, how its proposed expenditures of CETF funds will improve educational outcomes and how the board will determine whether those improved outcomes have been achieved.

14811. (a) As a condition of receiving any CETF funds, each LEA shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as the California Education Trust Fund account. Each LEA shall allocate and spend the funds in that account solely in accordance with Sections 14805 to 14808, inclusive.

(b) The independent financial and compliance audit required of school districts shall, in addition to all other requirements of law, ascertain and verify whether CETF funds have been properly disbursed and expended as required by this part. This requirement shall be added to the audit guide requirements for school districts and shall be part of the audit reports annually reviewed and monitored by the Controller pursuant to Section 14504.

(c) LEAs shall annually prepare and post on their Internet

Web sites, within 60 days after the close of each school year, a clear and transparent report of exactly how CETF funds were spent at each of the schools within their jurisdiction, what the goals for those expenditures were as relayed to the school community under Section 14810, and the extent to which they achieved the goals established. The Superintendent shall provide a link on his or her Internet Web site that enables community members and researchers to access all such reports statewide within two weeks after they are posted by LEAs.

14812. (a) Beginning with the 2012–13 school year, as a condition of receiving CETF funds, the governing board of each LEA that receives funds under this act shall create and publish online a budget for every school within the LEA's jurisdiction that compares actual funding and expenditures for that school from the prior fiscal year with the budgeted funding and expenditures for that school for the current fiscal year. The Internet Web site of the Superintendent shall provide a link enabling community members and researchers to access all such budgets statewide, for current and past years, dating back to the 2012–13 school year. The budget shall show the source and amount of all funds being spent at the school, including, but not limited to, funds provided under this act, and how each source category of funds is being spent. The budget shall be in a uniform format designed and approved by the Superintendent. Expenditures shall be reported overall per pupil and by average teacher salary, as well as by instruction, instructional support, administration, maintenance, and other important categories. The State Department of Education shall require and ensure that school districts and schools uniformly report expenditures by appropriate category and uniformly distinguish between school and school district expenditures. The budget shall also include personnel costs described by number, type, and seniority of personnel and use actual salary and benefit figures for employees at the school without any individual identifying information. Each K–12 school receiving money from the California Education Trust Fund shall also include these funds as a separate section in a single school plan that substantially meets the criteria of subdivisions (d), (f), and (h) of Section 64001.

(b) Allocations from the California Education Trust Fund are intended to provide pupils with additional support and programs beyond those currently provided from other state, local, and federal sources. Beginning in the 2013–14 fiscal year, LEAs shall make every reasonable effort to maintain, from funds other than those provided under this act, per-pupil expenditures at each of their schools at least equal to the 2012–13 fiscal year per-pupil expenditures, adjusted for changes in the cost of living. This shall be known as the "maintenance of effort target" for that school. The uniform schoolsite budget required by subdivision (a) shall include a clear statement of what the per-pupil expenditures were at that school in 2012–13 fiscal year from all fund sources other than those provided under this act, and a projection of what those expenditures would be for the current school year if the school had annually met its maintenance of effort target. If in any year an LEA cannot meet its maintenance of effort target for any of its schools, the LEA shall explain why in its schoolsite budget for that school and shall discuss that explanation at a public

meeting to be held at or near the schoolsite pursuant to Section 14810. At that meeting, officials from the LEA shall address why it is not possible to meet the maintenance of effort target for that particular school, and how the agency proposes to keep the failure to meet the target from having a negative impact on pupils and their families.

14813. (a) Funds allocated pursuant to subdivision (a) of Section 14802.1 and CETF funds that are determined by the Fiscal Oversight Board to exceed both available revenues and the board and Controller's actual reimbursable costs pursuant to Section 14803 shall be transferred on a quarterly basis by the Controller to the Education Debt Service Fund, which is hereby created in the State Treasury. Education Debt Service Fund moneys are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this section.

(b) Moneys in the Education Debt Service Fund shall be used solely to pay debt service on bonds, or to redeem or defease bonds, maturing in a subsequent fiscal year, that either (1) were or are issued by the state for the construction, reconstruction, rehabilitation, or replacement of pre-kindergarten through university school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for such school facilities ("school bonds"); or (2) to the limited extent permitted by subdivision (c), were or are issued by the state for children's hospital or other general obligation bonds.

(c) From moneys transferred to the Education Debt Service Fund, the Controller shall transfer, as an expenditure reduction to the General Fund, amounts necessary to offset the cost of current-year debt service payments made from the General Fund on school bonds, children's hospital, or other general obligation bonds, or to redeem or defease school bonds, children's hospital, or other general obligation bonds, as directed by the Director of Finance; provided, however, that no funds in the Education Debt Service Fund shall be used to offset the cost of current-year debt service payments on children's hospital or other general obligation bonds, or to redeem or defease children's hospital or other general obligation bonds, until and unless the Controller, at the direction of the Director of Finance, has first fully reimbursed the General Fund for the cost of current-year debt service payments on all outstanding school bonds. Funds so transferred shall not constitute General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution, for purposes of Section 8 of Article XVI of the California Constitution.

14814. (a) No later than six months following the end of each fiscal year, the Fiscal Oversight Board shall cause an independent audit to be conducted of the California Education Trust Fund and shall submit to the Legislature and the Governor, and shall post prominently on the Internet Web site of the Fiscal Oversight Board, with a link to the report clearly displayed on the Superintendent's home page, both the full audit report and an easily understandable summary of the results of that audit. The report shall include an accounting of all proceeds of the personal tax increments established pursuant to Section 17041.1 of the Revenue and Taxation Code, all transfers of those

proceeds to the California Education Trust Fund, a listing of the amount of funds received from the California Education Trust Fund that fiscal year by each LEA and each school within that LEA's jurisdiction, and a summary, based on the reports required of all LEAs by subdivision (c) of Section 14811, showing the way each LEA used the funds at each of its schools and the results the LEA was seeking and achieved.

(b) The Superintendent, in consultation with the Fiscal Oversight Board, shall design and provide to each LEA and ECE provider a form or format for ensuring uniform reporting of the information required for the audit report.

(c) The costs of performing the annual audit, and of creating, distributing, and collecting the required reports, shall be determined by the Fiscal Oversight Board to ensure prudent use of funding while ensuring the intent of this act is carried out. Such costs shall be included within the items whose actual cost may be paid for by CETF funds pursuant to subdivision (b) of Section 14802.

(d) In the course of performing and reporting on the annual audit, the independent auditor shall promptly report to the Attorney General and the public any suspected allocation or use of funds in contravention of this act, whether by the Fiscal Oversight Board or its agents, or by any LEA.

(e) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 who knowingly fails to allocate or distribute the funds to each LEA and each local school on a per-pupil basis as specified in those sections is guilty of a felony subject to prosecution by the Attorney General, or if he or she fails to act promptly, the district attorney of any county, pursuant to subdivision (b) of Section 425 of the Penal Code. The Attorney General, or if the Attorney General fails to act, the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807.

SEC. 5. Section 46305 of the Education Code is amended to read:

46305. Each elementary, high school, and unified school district, and each independent charter school, county office of education, and state-run school, shall report to the Superintendent of Public Instruction on forms prepared by the Department of Education in addition to all other attendance data as required, the active enrollment as of the third Wednesday of each school month and the actual attendance on the third Wednesday of each school month; except that if such day is a school holiday, the active enrollment and actual attendance of the first immediate preceding schoolday shall be reported. "Active enrollment" on a day a count is taken means the pupils in enrollment in the regular schooldays of the district on the first day of the school year on which the schools were in session, plus all later enrollees, minus all ~~withdrawals since that day~~ pupils who have not been in attendance for at least one day between the first day of the school year or the first schoolday immediately following the next preceding day for which a count was taken pursuant to this section, whichever is later, and the day the count is being taken, inclusive. The Superintendent may, as necessary, modify the collection dates or methodologies

in order to reduce any local educational agency's administrative duties in the implementation of this section.

SEC. 6. Chapter 1.8 (commencing with Section 8160) is added to Part 6 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 1.8. EARLY CHILDHOOD QUALITY IMPROVEMENT AND EXPANSION PROGRAM

Article 1. General Provisions

8160. The following definitions shall apply throughout this chapter:

(a) The terms "early care and education program" or "ECE program" mean any state-funded or state-subsidized preschool, child care, or other state-funded or state-subsidized early care and education program for children from birth to kindergarten eligibility, including but not limited to programs supported in whole or in part with funds from the California Children and Families Trust Fund. Where an ECE program is not funded exclusively with state funds, the term "ECE program" means that portion of the program that is state funded.

(b) The term "ECE provider" or "provider" means any person or agency legally authorized to deliver an ECE program.

(c) The term "take-up rates" means the degree to which ECE providers apply for and are granted program funding under the provisions of this chapter.

(d) The term "reimbursement rate" means the per-child payment ECE providers receive on behalf of eligible families from state funds to cover their costs in providing ECE services.

(e) The term "ECE funds" means the funds allocated to early care and education pursuant to Sections 14803 and 14804.

(f) The term "SAE funds" means funds set aside for strengthening and expanding ECE programs pursuant to subdivision (b) of Section 8161.

(g) The term "highly at-risk children" means children who are from low-income birth families, low-income foster families, or low-income group homes and who also (1) are in foster care or have been referred to Child Protective Services; (2) are the children of young parents who are themselves in foster care; or (3) are otherwise abused, neglected, or exploited, or probably in danger of being abused, neglected, or exploited, as shall be further defined by the Superintendent.

8161. ECE funds shall be allocated annually to the Superintendent to be used as follows:

(a) No more than 23 percent of the ECE funds shall be used as follows:

(1) Three hundred million dollars (\$300,000,000) for existing ECE programs to restore funding to fiscal year 2008–09 levels in proportion to reductions made to each ECE program in fiscal years 2009–10 through 2012–13, inclusive, subject to the following:

(A) Restoration shall apply equally to all types of reductions, whether accomplished by reduced child eligibility, reduced reimbursement rates, reduction in contract amounts, reduction in number of contracts let, or otherwise.

(B) To the extent the Superintendent is required to allocate funds to the State Department of Social Services or any successor agency to accomplish this restoration of funds, he or she shall do so.

(C) If the Superintendent and the State Department of Social Services jointly find that any funds cannot be restored due to shortfalls in take-up rates, those funds shall be used to increase the baseline quality reimbursement rates established pursuant to subdivision (b) of Section 8168.

(2) Five million dollars (\$5,000,000) to the Community Care Licensing Division of the State Department of Social Services, or any successor agency, to increase the frequency of licensing inspections of ECE providers beyond fiscal year 2011–12 levels under terms agreed upon by the Superintendent and the State Department of Social Services or any successor agency by no later than July 1, 2013.

(3) Up to ten million dollars (\$10,000,000) to develop and implement the database established pursuant to Section 8171 to track the educational progress of children who have participated in the state's ECE programs.

(4) Forty million dollars (\$40,000,000) to develop, implement, and maintain the Early Learning Quality Rating and Improvement System ("the QRIS system") established pursuant to Article 4 (commencing with Section 8167). Funds provided by this section shall not be used for increases in provider reimbursement rates or other provider compensation, but rather for the design, implementation, and evaluation of the system, for ECE provider assessment and skills development, for improving and expanding the ECE skills development programs offered by community colleges and other high-quality trainers, for data keeping and analysis, and for communication with the public about the quality levels being achieved by ECE providers.

(5) The amounts set forth in paragraphs (1) to (4), inclusive, shall be adjusted annually by the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1 as it read on the date of enactment of this section.

(6) In any year in which ECE funds are insufficient to cover the requirements of paragraphs (1), (3), and (4), the amounts required by those paragraphs shall be reduced pro rata.

(b) After allocating the restoration and system improvement funds provided in subdivision (a), the Superintendent shall use the remaining ECE funds, to be known as "the SAE funds" pursuant to subdivision (f) of Section 8160, to strengthen and expand ECE programs as set forth in this chapter.

(c) ECE funds allocated to the Superintendent shall be spent for the purposes provided in this chapter within one year of their receipt by the Superintendent. The Fiscal Oversight Board established pursuant to Section 14802 shall annually recover any unspent funds, and they shall again become part of the ECE funds, to be re-allocated pursuant to this chapter.

8162. (a) Except as may be required by federal law, any child's eligibility for any ECE program, including, but not limited to, any ECE program established, improved, or expanded with funds allocated under this chapter, shall be established once annually upon the child's enrollment in the program. Subsequent to enrollment, a child shall be deemed eligible to participate in the program for the remainder of the program year, and then may re-establish eligibility in subsequent years on an annual basis.

(b) Beginning in the 2013–14 fiscal year, the annual appropriation for ECE programs as a percentage of the General

Fund shall not be reduced as a result of funds allocated pursuant to this act below the percentage of General Fund revenues appropriated for ECE programs in the 2012–13 fiscal year.

8163. *The Superintendent shall allocate SAE funds as follows:*

(a) *Twenty-five percent of the SAE funds shall be allocated for the benefit of children aged birth to three years pursuant to this subdivision as follows:*

(1) *Up to 1 percent of the SAE funds shall be allocated to raise the reimbursement rate in contracted group care programs for children younger than 18 months of age to the baseline quality reimbursement rate established pursuant to subdivision (b) of Section 8168.*

(2) *Up to 2½ percent of the SAE funds, as take-up rates permit, shall be allocated to increase reimbursement rates above 2012–13 fiscal year rates through a supplement provided under the QRIS system for those ECE programs and providers serving children aged birth to three years that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to subdivision (b) of Section 8168.*

(3) *Twenty-one and one-half percent of the SAE funds shall be allocated to the California Early Head Start program established pursuant to Article 2 (commencing with Section 8164). No less than 35 percent of the SAE funds allocated to the California Early Head Start program under this paragraph shall be used specifically for strengthening parents and other caregivers pursuant to subdivision (d) of Section 8164.*

(b) *Seventy-five percent of the SAE funds shall be used to expand and strengthen preschool programs for children of three to five years of age, as set forth in Article 3 (commencing with Section 8165).*

(c) *No more than 3 percent of the SAE funds shall be spent for administrative costs incurred at the state level.*

(d) *No more than 15 percent of the funding an ECE provider receives from SAE funds shall be used for re-purposing, renovation, development, maintenance or rent, and lease expense for an appropriate program facility. The Superintendent shall promulgate appropriate regulations to oversee and structure appropriate use of SAE funds for facilities.*

Article 2. California Early Head Start Program

8164. *Using the funds allocated pursuant to paragraph (3) of subdivision (a) of Section 8163, the Superintendent shall develop and implement the California Early Head Start program to expand care for children aged birth to three years as follows:*

(a) *The program shall be under the ongoing regulation and control of the Superintendent, but it shall be modeled on the federal Early Head Start program established pursuant to Section 9840a of Title 42 of the United States Code. In consultation with the Early Learning Advisory Council (ELAC) described in Section 8167, the Superintendent shall ensure that, at minimum, the California Early Head Start program complies with all content and quality standards and requirements in place as of November 2011, for the federal Early Head Start program. The Superintendent may adopt subsequent federal Early Head Start program standards and requirements at his or*

her discretion.

(b) *Funds used for the California Early Head Start program shall not be used to supplant money currently spent on any other state or federal program for children aged birth to three years.*

(c) *The Superintendent shall adopt the same eligibility standards used by the federal Early Head Start program as of November 2011; provided, however, that highest priority for enrollment shall go first to highly at-risk children as defined in paragraph (1) of subdivision (g) of Section 8160, then to highly at-risk children as defined in paragraph (2) of subdivision (g) of Section 8160, and then to highly at-risk children as defined in paragraph (3) of subdivision (g) of Section 8160.*

(d) *In addition to providing high-quality group care in licensed centers and family child care homes, the California Early Head Start program shall provide services to families and caregivers of children who are not enrolled in a California Early Head Start group care setting. These services shall be designed to strengthen the capacity of parents and caregivers of children aged birth to three years to improve the care, education, and health of very young children both in group care settings and at home. Services may include any of those that may be offered to families of federal or California Early Head Start group care enrollees, including but not limited to voluntary home visits, early developmental screenings and interventions, family and caregiver literacy programs, and parent and caregiver trainings. Among programs provided to caregivers pursuant to this subdivision, priority shall go to programs for license-exempt family, friend, and neighbor providers.*

(e) *In consultation with ELAC, the Superintendent shall establish quality standards for the services provided under subdivision (d), incorporating the standards and training regimens of the federal Early Head Start program. The Superintendent shall coordinate with other public agencies that operate similar programs to ensure uniform standards across these programs.*

(f) *California Early Head Start funds may be used to expand the number of children served by existing ECE programs for children aged birth to three years, provided that the programs meet the quality standards described in subdivisions (a) and (e) and the children served meet the eligibility criteria of subdivision (c).*

(g) *At least 75 percent of the group care spaces created statewide with California Early Head Start funds shall provide full-day, full-year care.*

Article 3. Strengthening and Expanding Preschool Programs

8165. (a) *SAE funds allocated to strengthen and expand preschool programs for three-to-five-year olds pursuant to subdivision (b) of Section 8163 shall be allocated as follows:*

(1) *Up to 8 percent of SAE funds, as take-up rates permit, to increase reimbursement rates above 2012–13 fiscal year rates through a supplement provided under the QRIS system for those ECE programs and providers serving children three to five years of age that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to subdivision (b) of Section 8168.*

(2) *The remainder, no less than 67 percent of all SAE funds, shall be used to expand the number of children served by high-quality preschool programs for three- to five year olds in licensed or K–12 based programs that meet the two highest quality ratings established under the QRIS system. Until the statewide QRIS is established and able to assess the quality of significant numbers of programs, the Superintendent may issue temporary regulations authorizing use of the expansion funds described in this subdivision for programs otherwise shown to meet high-quality standards, including but not limited to programs having ratings in the top two tiers of pre-existing local or regional QRIS systems, programs with nationally recognized quality accreditations, or programs meeting the quality standards applicable to transitional kindergarten. QRIS program standards shall be established and publicly available no later than January 1, 2014. Providers qualified under the Superintendent’s temporary regulations shall receive priority for evaluation under the new system. The temporary regulations shall sunset on January 1, 2015, and the provisionally certified providers shall then, to retain funding, be qualified under the established QRIS program standards by no later than January 1, 2017.*

(3) *At least 65 percent of the new spaces created statewide pursuant to paragraph (2), shall be full-day, full-year spaces, which may be created solely through this chapter or by combining funding from two or more sources to create a combined schoolday, after school, and summer enrichment program.*

(b) *Children shall be deemed to be “three to five years of age” and thus eligible for programs funded pursuant to paragraph (2) of subdivision (a), if they are three or four years old as of September 1 of the school year in which they are enrolled in the programs and are not yet eligible to attend kindergarten.*

8166. (a) *Using data from the United States Census Bureau, the Superintendent shall disburse the funds allocated pursuant to paragraph (2) of subdivision (a) of Section 8165 (the “preschool expansion funds”) according to an income-ordered list of all California neighborhoods, starting with the lowest income neighborhood and progressing as far up the list of neighborhoods by income as the preschool expansion funds permit, as follows:*

(1) *The Superintendent shall create a neighborhood list based on median household income and on neighborhoods as defined by ZIP Codes or an equivalent geographic unit. Throughout this section, the term “neighborhood” means a ZIP Code or equivalent geographic unit included in the neighborhood list. Using available data on ECE availability, the Superintendent shall identify annually the neighborhoods and school districts within which children live who are age-eligible for preschool expansion funds and who do not currently have access to an ECE program or a transitional kindergarten program.*

(2) *For each ZIP Code or equivalent geographic unit, the Superintendent shall determine the number of eligible, unserved children and inform the school district, the licensed Family Child Care Home Education Networks (“licensed networks”), the licensed center-based ECE providers, and the providers of federal Head Start or other federal ECE programs (“federal*

providers”) operating within the ZIP Code or equivalent geographic unit that they are eligible to expand their programs to serve these children, and solicit applications from them for preschool expansion funding. To be eligible for funding, applicants shall be able and willing to serve the eligible children for whom they are applying in the first school year following notification of eligibility.

(3) *Licensed networks, licensed center-based ECE programs, and federal providers operating within the ZIP Code or other geographic unit shall have priority if there are duplicate applications for the same eligibility. By awarding priority to joint applications, the Superintendent shall encourage school districts, licensed networks, licensed center-based ECE providers, and federal providers in eligible areas to cooperate in a joint application that maximizes the strengths of all programs and minimizes disputes. If the eligible school district, the eligible networks, the eligible center-based programs, and the federal providers are all unable or decline to serve children they are eligible to serve, or any of them, the Superintendent shall request proposals from alternative qualified local educational agencies, licensed networks, licensed center-based ECE providers, and federal providers to serve the eligible children. In seeking alternative qualified providers, the Superintendent shall communicate, specifically but without limitation, with alternative payment providers working in the county where the eligible children reside.*

(4) *Attendance at preschool, including preschool programs established or expanded pursuant to this chapter, is voluntary. Unfilled spaces that have been offered in any ZIP Code or equivalent geographic unit for three consecutive years, with effective outreach throughout the eligible community, but have still not been filled, may be deemed declined, and may be offered to the next highest income neighborhood on the neighborhood list.*

(5) *At least once every five years, the Superintendent shall review which spaces have been deemed declined and shall restore lost eligibility to any neighborhood to the extent changed conditions indicate that the spaces would now be filled.*

(b) *Children will be eligible to attend programs funded with preschool expansion funds upon proving either that they reside in an eligible ZIP Code or equivalent geographic unit or that their families meet the income eligibility requirements of any existing means-tested ECE program; provided, however, that highest priority for enrollment shall go first to highly at-risk children as defined in paragraph (1) of subdivision (g) of Section 8160, then to highly at-risk children as defined in paragraph (2) of that subdivision, and then to highly at-risk children as defined in paragraph (3) of that subdivision.*

Article 4. California Early Learning Quality Rating and Improvement System

8167. *As used in this article, the term “Early Learning Advisory Council” (ELAC) means the Early Learning Advisory Council established pursuant to Executive Order S-23-09 or any successor agency.*

8168. (a) *Taking into consideration the report and recommendations prepared by the California Early Learning Quality Improvement System Advisory Committee in 2010, the Superintendent, in consultation with ELAC, shall develop and*

implement an Early Learning Quality Rating and Improvement System (QRIS system) by no later than January 1, 2014, that includes all of the following:

(1) A voluntary quality rating scale available to all ECE programs, including preschool, that serve children from birth to five years of age, inclusive, including preschool age children, infants, and toddlers. The quality rating scale shall give highest priority to those features of ECE programs that have been demonstrated to contribute most effectively to young children's healthy social and emotional development and readiness for success in school.

(2) A voluntary assessment and skills-development program to help ECE providers increase the quality ratings of their programs under the QRIS system.

(3) A method for increasing reimbursement rates above 2011–12 fiscal year rates through a supplement provided for ECE programs and providers that improve their ratings or verify that they already meet higher ratings standards under the QRIS system.

(4) A means by which parents and caregivers receive accurate information about the quality and type of program in which their children are enrolled or may be enrolled, including prompt publication of the quality ratings of programs and providers conducted pursuant to the QRIS system.

(b) The Superintendent, in consultation with ELAC, shall also establish baseline quality reimbursement rates that are sufficient to cover the cost of providing ECE programs at the quality standards applicable to those programs under the laws and regulations that governed those programs as of November 1, 2012 (the "baseline quality reimbursement rate"). If any current reimbursement rate is below the baseline quality reimbursement rate, the Superintendent may use any funds available under subparagraph (C) of paragraph (1) of subdivision (a) of Section 8161, or for programs for children younger than 18 months, the funds available under paragraph (1) of subdivision (a) of Section 8163, to increase that reimbursement rate.

8169. (a) ELAC and the Superintendent shall collaborate with local planning councils, the First 5 California Commission, and each county First 5 commission to develop and oversee the QRIS, the California Early Head Start program, and preschool expansion programs established pursuant to Article 2 (commencing with Section 8164), Article 3 (commencing with Section 8165), and this article. These persons and entities shall work together to utilize local, state, federal, and private resources, including resources available pursuant to the California Children and Families Act of 1998 (Division 108 (commencing with Section 130100) of the Health and Safety Code), as part of a comprehensive effort to advance the efficiency, educational and developmental effectiveness, and community responsiveness of the ECE system.

(b) ELAC shall hold at least one joint public meeting each year in each region of the state with the region's local planning councils and the region's county First 5 commissions (alternatively known as California Children and Families Commissions) to receive public input and report on the progress of the programs established pursuant to this act.

(c) Funds provided under paragraph (4) of subdivision (a) of

Section 8161 may be used to fund the collaboration and convening activities required by this section.

8170. (a) The Superintendent shall account for moneys received pursuant to this chapter separately from all other moneys received or spent and shall, within 90 days after the close of each fiscal year, prepare an annual report that lists the ECE programs that received funding with their quality ratings as available; the amounts each program received; the number of children they served; the types of services the children received; and the child outcomes achieved as available. The Superintendent shall post the report as soon as it is prepared on the Superintendent's Internet Web site and provide a link to it on his or her home page. The report shall be included in the report issued pursuant to Section 8236.1. The Fiscal Oversight Board shall verify the contents of the report and include it in the annual audit report required by subdivision (a) of Section 14814.

(b) The Superintendent shall also do all of the following:

(1) Monitor the award of contracts to ensure that ECE providers meet quality standards.

(2) Ensure uniform financial reporting and independent annual audits for all ECE providers receiving funds under this chapter.

(3) Receive, investigate, and act upon complaints regarding any aspect of the programs established pursuant to this chapter.

8171. (a) By no later than July 1, 2014, the Superintendent shall ensure that every child aged birth to five years who participates in an ECE program is assigned a unique identifier that is recorded and maintained as part of a statewide Early Education Services Database.

(b) The Early Education Services Database shall be an integral part of the California Longitudinal Pupil Achievement Data System (CALPADS), or any successor pupil-level data system that can trace a child's educational path from birth to 18 years of age, so that any child's full educational history, including ECE participation, will be automatically accessible through the child's unique identifier.

(c) At a minimum, the Early Education Services Database shall include all of the following for each child:

(1) The child's ZIP Code of residence each year.

(2) What ECE services the child received each year, such as whether the child attended a full or part-day program.

(3) The setting in which the ECE services were delivered.

(4) The agency that delivered the ECE services.

(5) The QRIS rating and any other quality rating available for that ECE provider.

(6) The child's kindergarten-readiness assessment, if available, including, but not limited to, the child's primary home language, level of fluency, and whether the child was screened for early intervention.

(d) CALPADS shall be reimbursed for its actual cost of implementing this section, up to the annual amount allocated in paragraph (3) of subdivision (a) of Section 8161.

8172. The Superintendent shall issue regulations, including emergency regulations, in order to implement this chapter.

SEC. 7. Section 425 of the Penal Code is amended to read:

425. (a) Every officer charged with the receipt, safe

keeping, or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of a felony.

(b) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code who knowingly fails to allocate or distribute the funds to each local educational agency or each local school on a per-pupil basis as specified in those sections is guilty of a felony, subject to prosecution by the Attorney General or, if he or she fails to act promptly, the district attorney of any county. The Attorney General or, if the Attorney General fails to act, the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code. Any person guilty of violating this subdivision shall be punished pursuant to Section 18 and shall be disqualified from holding any office in this state.

SEC. 8. Section 17041.1 is added to the Revenue and Taxation Code, to read:

17041.1. (a) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under subdivision (a) of Section 17041 to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013 and before January 1, 2014 shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	The additional tax on taxable income is:
Not over \$7,316	0
Over \$7,316 but not over \$17,346	0.4% of the excess over \$7,316
Over \$17,346 but not over \$27,377	\$40 plus 0.7% of the excess over \$17,346
Over \$27,377 but not over \$38,004	\$110 plus 1.1% of the excess over \$27,377
Over \$38,004 but not over \$48,029	\$227 plus 1.4% of the excess over \$38,004
Over \$48,029 but not over \$100,000	\$368 plus 1.6% of the excess over \$48,029
Over \$100,000 but not over \$250,000	\$1,199 plus 1.8% of the excess over \$100,000
Over \$250,000 but not over \$500,000	\$3,899 plus 1.9% of the excess over \$250,000
Over \$500,000 but not over \$1,000,000	\$8,649 plus 2.0% of the excess over \$500,000
Over \$1,000,000 but not over \$2,500,000	\$18,649 plus 2.1% of the excess over \$1,000,000
Over \$2,500,000	\$50,149 plus 2.2% of the excess over \$2,500,000

(b) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under subdivision (c) of Section 17041 to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013, and before January 1, 2014, shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	The additional tax on taxable income is:
Not over \$14,642	0%
Over \$14,642 but not over \$34,692	0.4% of the excess over \$14,642
Over \$34,692 but not over \$44,721	\$80 plus 0.7% of the excess over \$34,692
Over \$44,721 but not over \$55,348	\$150 plus 1.1% of the excess over \$44,721
Over \$55,348 but not over \$65,376	\$267 plus 1.4% of the excess over \$55,348
Over \$65,376 but not over \$136,118	\$408 plus 1.6% of the excess over \$65,376
Over \$136,118 but not over \$340,294	\$1,540 plus 1.8% of the excess over \$136,118
Over \$340,294 but not over \$680,589	\$5,215 plus 1.9% of the excess over \$340,294
Over \$680,589 but not over \$1,361,178	\$11,680 plus 2.0% of the excess over \$680,589
Over \$1,361,178 but not over \$3,402,944	\$25,292 plus 2.1% of the excess over \$1,361,178
Over \$3,402,944	\$68,169 plus 2.2% of the excess over \$3,402,944

(c) For taxable years beginning on or after January 1, 2014, the additional tax imposed under this section shall be computed based on the tax rate tables described in subdivisions (a) and (b), with the brackets in effect for taxable years beginning on or after January 1, 2013, and before January 1, 2014, adjusted annually as provided by subdivision (h) of Section 17041 for the change in the California Consumer Price Index.

(d) Except as provided in subdivisions (e) and (f), the additional tax imposed under this section shall be deemed to be a tax imposed under Section 17041 for purposes of all other provisions of this code, including Section 17045 or any successor provision relating to joint returns.

(e) The estimated amount of revenues, less refunds, derived from the additional tax imposed under this section shall be deposited on a monthly basis in the California Education Trust Fund, established by Section 14801 of the Education Code, in a manner that corresponds to the process set forth in Section 19602.5 of this code and is established by regulation by the Franchise Tax Board, based on the additional tax imposed under this section, no later than December 1, 2012. The adoption, amendment, or repeal of a regulation authorized by

this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) Notwithstanding Section 13340 of the Government Code, the California Education Trust Fund is hereby continuously appropriated, without regard to fiscal year, solely for the funding of the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act.

(g) The additional tax imposed under this section does not apply to any taxable year beginning on or after January 1, 2025, except as may otherwise be provided in a measure that extends the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act and is approved by the electorate at a statewide election held on or before the first Tuesday after the first Monday in November of 2024.

SEC. 9. Section 19602 of the Revenue and Taxation Code is amended to read:

19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, ~~and revenues deposited pursuant to Section 19602.5, and revenues collected pursuant to Section 17041.1,~~ all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

SEC. 10. Severability.

The provisions of this act are meant to be severable. If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions of the act or the application of this measure to other persons or circumstances.

SEC. 11. Conflicting Initiatives.

(a) In the event that this measure and another measure or measures amending the California personal income tax rate for any taxpayer or group of taxpayers, or amending the rate of tax imposed on retailers for the privilege of selling tangible personal property at retail, or amending the rate of excise tax imposed on the storage, use or other consumption in this state of tangible personal property purchased from any retailer for storage, use or other consumption in this state, shall appear on the same statewide election ballot, the rate-amending provisions of the other measure or measures and all provisions of that measure that are funded by its rate-amending provisions, shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than any such other measure, the rate-amending provisions of the other measure, and all provisions of that measure that are funded by its rate-amending provisions, shall be null and void, and the provisions of this measure shall prevail instead.

(b) Conflicts between other provisions not subject to subdivision (a) shall be resolved pursuant to subdivision (b) of Section 10 of Article II of the California Constitution.

SEC. 12. Amendments.

This act may not be amended except by majority vote of the people in a statewide general election.

SEC. 13. Effective Dates and Expiration.

(a) This measure shall be effective the day after its enactment. Operative dates for the various provisions of this measure shall be those set forth in the act.

(b) The tax imposed by subdivisions (a) and (b) of Section 17041.1 of the Revenue and Taxation Code added pursuant to this act shall cease to be operative and shall expire on December 31, 2024, unless the voters, by majority vote, approve the extension of the act at a statewide election held on or before the first Tuesday after the first Monday in November, 2024.

PROPOSITION 39

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Public Resources Code and the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE CALIFORNIA CLEAN ENERGY JOBS ACT

SECTION 1. The people of the State of California do hereby find and declare all of the following:

(1) California is suffering from a devastating recession that has thrown more than a million Californians out of work.

(2) Current tax law both discourages multistate companies from locating jobs in California, and puts job-creating California companies at a competitive disadvantage.

(3) To address this problem, most other states have changed their laws to tax multistate companies on the percent of sales in that state, a tax approach referred to as the “single sales factor.”

(4) If California were to adopt the single sales factor approach, the independent Legislative Analyst’s Office estimates that state revenues would increase by as much as \$1.1 billion per year and create a net gain of 40,000 California jobs.

(5) In addition, by dedicating a portion of increased revenue to job creation in the energy efficiency and clean energy sectors, California can create tens of thousands of additional jobs right away, reducing unemployment, improving our economy, and saving taxpayers money on energy.

(6) Additional revenue would be available to public schools consistent with current California law.

SEC. 2. Division 16.3 (commencing with Section 26200) is added to the Public Resources Code, to read:

DIVISION 16.3. CLEAN ENERGY JOB CREATION

CHAPTER 1. GENERAL PROVISIONS

26200. *This division shall be known and may be cited as the California Clean Energy Jobs Act.*

26201. *This division has the following objectives:*

38

39